

FILED

APR 07 2009

United States District Court
for the Western District of Texas
San Antonio Division

FILED

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY 274 DEPUTY CLERK

2008 JUN 10 P 4:50

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY 274 DEPUTY

Civil Action No. SA-08CV105-FB

Shelley Thomson

v.

Charles Lincoln,
Peyton Yates Freiman, and
Tierra Limpia Foundation / Tierra Limpia Trust

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SA09CA0275 0G

Motion to Remand

Shelley Thomson moves the court, once again, to remand Case. No. C2008-0119C to the 274th District Court, Comal County, Texas, to which it was previously remanded April 10, 2008, when the only named defendants were Charles Lincoln and Peyton Freiman.

I.

Plaintiff Shelley Thomson filed her First Amended Petition, on April 25, 2008, to join as defendant the Tierra Limpia foundation / Tierra Limpia Trust, of Lago Vista, Texas, surrogate for Charles Lincoln, and served defendants Freiman and Tierra Limpia at their last known addresses, including Peyton Freiman personally. On May 28, Peyton Freiman, *in propria persona*, filed a Notice of Removal with the U.S. District Court, Western District, San Antonio Division, May 28, 2008, which was assigned No. SA-08CV105-FB.

II.

Plaintiff Shelley Thomson has filed a motion with the U.S. District Court, Western District, Waco Division, a motion to enlarge its order of April 7, 2008, that any additional suits removed to federal court by Charles Lincoln be remanded to state court, to include any and all agents, trustees, surrogates, successors, assigns, or attorneys of Charles Edward Lincoln, III, and in particular, Peyton Yates Freiman and the Tierra Limpia Foundation / Tierra Limpia Trust, of Lago Vista, Texas.

III.

The beneficiary of the "Tierra Limpia Foundation/Tierra Limpia Trust", of Lago Vista, Texas, is Charles Edward Lincoln, III, or his minor son, Charles Edward Lincoln, IV, and it has been used for several years as a surrogate for Charles Edward Lincoln, III, in various litigation prepared and filed by Charles Edward Lincoln, III, a resident of Texas, who is not authorized to practice law in any state, in a pattern of serial abuse of process. Peyton Yates Freiman, a resident of Texas, is the trustee of "Tierra Limpia Foundation/Tierra Limpia Trust", of Lago Vista, Texas, and has likewise acted as an agent and surrogate for Charles Edward Lincoln, III, in a pattern of serial abuse of process. Peyton Yates Freiman is the employee of Charles Lincoln, as admitted in paragraph 9 of the Notice of Removal. The Tierra Limpia Trust is an instrument of Charles Lincoln, operated for his benefit by Peyton Yates Freiman, Trustee, as admitted on page 1 of the Declaration of Trust of Charles Edward Lincoln for Tierra Limpia Trust. Freiman is not authorized to practice law in any state. His filings have all been substantially prepared by Charles Edward Lincoln, III. Freiman cannot lawfully represent the Tierra Limpia Trust, or Charles Lincoln, nor can Lincoln lawfully represent Freiman or Tierra Limpia.

IV.

The aforesaid Notice of Removal is a clear attempt to circumvent the order of Judge Smith, by action through agents and surrogates.

V.

Plaintiff Shelley Thomson respectfully maintains that her complaint raises no substantial question of federal law nor does it require implementation of federal law for its resolution. The theory proposed by Defendants that an allegation of criminal acts transforms a state lawsuit into a Federal RICO action is absurd. The purpose of the lawsuit is to lay to rest the fraudulent claims presented as justification for the fraudulent lien and to obtain such remedies for the injured Plaintiff as the court may see fit to order. This is a visible, unambiguous cause of action and it can properly be resolved in state court.

VI.

The diversity of citizenship given as a ground for removal of the case does not exist. The case concerns Texas real estate, a Texas trust, a Texas plaintiff and Texas defendants. The Defendant, Charles Lincoln, who has claimed to be a resident of another state, lived in Texas when the lawsuit was filed, has since given Freiman's address in Texas as his address for service, and in any event cannot lawfully establish diversity of

citizenship by moving out of the state after the events that are the subject of the case, and the civil action has been filed and served. He has also defaulted.

Wherefore, movant requests this Court remand Case No. C2008-0119C to the 274th District Court, Comal County, Texas. Plaintiff Shelley Thomson prays for all such other and further relief at law and equity to which she may otherwise be entitled.

Respectfully submitted this 10th day of June, 2008,



Shelley Thomson, *in propria persona*
415 Windsor Dr
New Braunfels, TX 78132
830-627-9272
sthomson @ spinn.net

United States District Court
for the Western District of Texas
San Antonio Division

Shelley Thomson §
§
v. § Civil Action No. SA-08CV105-FB
§
§
Charles Lincoln, §
Peyton Yates Freiman, and §
Tierra Limpia Foundation / Tierra Limpia Trust §

Order

Came on this date to be considered the Motion to remand Case. No. C2008-0119C to the 274th District Court, Comal County, Texas, on which a Notice of Removal was filed by Peyton Yates Freiman in the San Antonio Division of the Western District of Texas May 28, 2008.

Having reviewed the motion, the Court is persuaded it is meritorious and should be granted. Accordingly, it is

ORDERED that Case. No. C2008-0119C be remanded to the 274th District Court, Comal County, Texas.

SIGNED this day of June, 2008.

Judge Presiding

Certificate of Service

The foregoing was served by certified mail on the following at these, their last known addresses, on June 10, 2008:

Charles Edward Lincoln, III
300 East Riverside #132
Austin, TX 78704

Peyton Yates Freiman
300 East Riverside #132
Austin, TX 78704

Tierra Limpia Foundation / Tierra Limpia Trust
300 East Riverside #132
Austin, TX 78704



Shelley Thomson

United States District Court
for the Western District of Texas
Waco Division

Greg Abbott, Office of the Attorney General, State of Texas, Plaintiff	§ § § §	
v.	§ §	
Daniel Simon, Defendant	§ §	Civil Action No. W-08-CA-010
v.	§ §	
Barbara Casebolt, Don Higginbotham, John McMaster, and Michael Levitt, Third Party Defendants	§ § §	

Motion to Enlarge Order

Shelley Thomson moves the court to enlarge its order of April 7, 2008, that any additional suits removed to federal court by Charles Lincoln be remanded to state court, to include any and all agents, trustees, surrogates, successors, assigns, or attorneys of Charles Edward Lincoln, III, and in particular, Peyton Yates Freiman and the Tierra Limpia foundation / Tierra Limpia Trust, of Lago Vista, Texas, and would show:

I.

Movant Shelley Thomson is Plaintiff against Charles Lincoln, Peyton Yates Freiman, and Tierra Limpia foundation / Tierra Limpia Trust, Case. No. C2008-0119C, 274th District Court, Comal County, Texas, in which a First Amended Petition was filed and served April 25, 2008. On May 28, Peyton Freiman, *in propria persona*, filed a Notice of Removal with the U.S. District Court, Western District, San Antonio Division, May 28, 2008, which was assigned No. SA-08CV105-FB.

II.

The beneficiary of the "Tierra Limpia Foundation/Tierra Limpia Trust", of Lago Vista, Texas, is Charles Edward Lincoln, III, or his minor son, Charles Edward Lincoln, IV, and it has been used for several years as a surrogate for Charles Edward Lincoln, III, in various litigation prepared and filed by Charles Edward Lincoln, III, a resident of Texas, who is not authorized to practice law in any state, in a pattern of serial abuse of process. Peyton Yates Freiman, a resident of Texas, is the trustee of "Tierra Limpia Foundation/Tierra Limpia Trust", of Lago Vista, Texas, and has likewise acted as an agent and surrogate for Charles Edward Lincoln, III, in a pattern of serial abuse of process. He is not authorized to practice law in any state. His filings have all been prepared by Charles Edward Lincoln, III.

III.

The aforesaid Notice of Removal is a clear attempt to circumvent the order of this court, by action through agents and surrogates.

Wherefore, movant requests this Court enlarge its order of April 7, 2008, to include any and all agents, trustees, surrogates, successors, assigns, or attorneys of Charles Edward Lincoln, III, and in particular, Peyton Freiman and the Tierra Limpia foundation / Tierra Limpia Trust, of Lago Vista, Texas.

Respectfully submitted this 10th day of June, 2008,



Shelley Thomson, *in propria persona*
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United States District Court
for the Western District of Texas
Waco Division

Greg Abbott, Office of the Attorney General, State of Texas, Plaintiff	§ § § § §
v.	§ §
Daniel Simon, Defendant	§ § § § §
v.	§ §
Barbara Casebolt, Don Higginbotham, John McMaster, and Michael Levitt, Third Party Defendants	§ § § §

Order

Came on this date to be considered the Motion to Enlarge Order Sanctioning Charles Lincoln filed by Shelley Thomson, who is the Plaintiff in Civil Action No. SA-08CV105-FB, on which a Notice of Removal was filed by Peyton Yates Freiman in the San Antonio Division of the Western District of Texas May 28, 2008.

Having reviewed the motion, the Court is persuaded it is meritorious and should be granted. Accordingly, it is

ORDERED that the Order of Sanctions previously entered in this case against Daniel Simon and Charles Lincoln is amended to reflect that Case No. SA-08CV105-FB be remanded to state court. It is further

ORDERED that any additional suits removed to any federal court in the Western District of Texas by Charles Edward Lincoln, III, his agents, trustees, surrogates, successors, assigns, or attorneys, and in particular, Peyton Yates Freiman and the Tierra Limpia foundation / Tierra Limpia Trust, of Lago Vista,

Texas, be remanded to the state court from whence they were removed.

The Clerk of the Court is directed to forward a, copy of this Order to all Clerk's Offices in the Western District of Texas and to the Clerks of the Court for the Northern, Eastern, and Southern Districts of Texas.

SIGNED this day of June, 2008.

Judge Presiding